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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,270	06/27/2001	Gunnar Aija	4925-120	6284

7590 12/13/2004

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[REDACTED] EXAMINER

PUENTE, EMERSON C

ART UNIT	PAPER NUMBER
	2113

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/893,270	AIJA ET AL.	
	Examiner Emerson C Puente	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 27 June 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,26,27 and 30 is/are rejected.
- 7) Claim(s) 2-25,28 and 29 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 June 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/27/01</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

This action is made Non-Final. Claims 1-30 have been examined.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are informal. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

Claim 10 is objected to because of the following informalities:

In regards to claim 10, please change “the background system” to “the backup system” (see line 10 of claim).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 26, 27, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,490,722 of Barton et al. referred hereinafter "Barton".

In regards to claim 1, Barton discloses a method for recovering from startup and runtime failures of a software system in a computer environment including a client device, comprising the steps of:

- (a) providing a persistent memory in the client device including at least first and second system partitions and at least one package partition, wherein runtime components of the software system are installed on the first and second system partitions (see column 3 lines 1-5) and at least the software packages of the software system downloaded from remote servers are saved on the at least one package partition (see column 3 lines 31-37);
- (b) designating one of the first and second system partitions as a current system partition and the other of the first and second system partitions as a backup system partition (see column 3 lines 4-6);
- (c) using the current system partition by a central processing unit of the client device for controlling the client device (see column 3 lines 7-30);
- (d) rebooting the software system of the client device using the backup system partition in response to one of an startup failure, a runtime failure of the software system of the client device, and a user request (see column 3 lines 10-15);
- (e) designating the backup system partition as the new current system partition (see column 3 lines 10-15); and

(f) creating a new backup system partition from the new current system partition (see column 3 lines 31-37).

In regards to claim 26, Barton discloses:

where the client device is one of a personal computer, a personal digital assistant, a mobile phone, a cable television set top box, and a satellite television set top box (see column 4 lines 25-33).

In regards to claim 27, Barton discloses a computer system comprising a client device connectable to a server via a communication network for receiving software packages, said client device comprising:

a persistent memory connected to said central processing unit, said persistent memory having two system partitions and at least one package partition, wherein runtime components of a software system of said client device are installed on said two system partitions (see column 3 lines 1-5), one of said two system partitions being designated as a current system partition and the other one of said two system partitions is designated as a backup system partition (see column 3 lines 4-6), and wherein all software packages installed in the computer system are saved on said at least one package partition (see column 3 lines 31-37);

a central processing unit connected to said persistent memory and using said current system partition for control (see column 3 lines 7-30); and

means for automatically rebooting said computer system using the backup partition in response to one of a startup failure, a runtime failure, and a user request to revert to a previous software version (see column 3 lines 10-15);

In regards to claim 30, Barton discloses:

wherein said client device comprises one of a personal computer, a personal digital assistant, and a mobile phone (see column 4 lines 25-33).

Allowable Subject Matter

Claim 2-25 and 28-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

See PTO 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C Puente whose telephone number is (571) 272-3652. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ecp


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